

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF

Harold Brazil

**At Large Member of the
Council of the District of Columbia**

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DATE: October 29, 2002

DOCKET NO.: CF 2002-03

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) pursuant to a referral from the Office of the Inspector General for the District of Columbia (hereinafter OIG) in a published report entitled "Report of Investigation of the Fundraising Activities of the Executive Office of the Mayor (EOM)" (hereinafter Report) (OIG Control Number 2001-0188 (S)). In the Report, the Inspector General has alleged that Harold Brazil, At Large Member of the Council of the District of Columbia, engaged in prohibited activity that violated provisions of the District of Columbia Personnel Manual Standards Of Conduct. Specifically, the Inspector General has alleged that Councilmember Brazil solicited a monetary donation from an entity that conducts business with and is regulated by the District government in violation of §§1800.1, 1803.1(f), 1803.2(A), and 1804.1(b) and (i) of the District Personnel Manual (hereinafter DPM).¹

¹ DPM §1800.1 reads as follows:

Employees of the District government shall at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

DPM §1803.1(f) reads as follows:

An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of the following:

. . .

(f) Affecting adversely the confidence of the public in the integrity of government.

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the DPM employee conduct regulations. There was not any credible evidence that the respondent committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition). Any alleged violation of the Act by the respondent would be predicated upon the premises that respondent realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities.² See D.C. Official Code §1-1106.01. Additionally, fines may be assessed for any violation of the Act. OCF's review did not reveal any such

DPM §1803.2(A) reads as follows:

District employees shall not solicit or accept, either directly or through the intercession of others, any gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with others:

- (a) Has, or is seeking to obtain, contractual business or financial relations with the D.C. government;
- (b) Conducts operations or activities that are subject to regulation by the D.C. government; or
- (c) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

DPM §1804.1(b) reads as follows:

An employee may not engage in any outside employment or other activity, which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include but are not limited to, the following:

...

- (b) Using government time and resources for other than official business[, and]

...

- (i) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.

² D.C. Law 14-36, "Campaign Finance Amendment Act of 2001," effective October 13, 2001, prohibits the use of District government resources for campaign related activities.

activity.

Accordingly, where a violation of the DPM employee conduct regulations has occurred, OCF is limited with respect to any action which otherwise may be ordered. Inasmuch as the DPM consists of personnel regulations, fines cannot be assessed. The Director may only recommend disciplinary action to the person responsible for enforcing the provisions of the employee conduct rules against the respondent.

By letter dated June 7, 2002, OCF requested the appearance of the respondent at a scheduled hearing on June 17, 2002. The purpose of the hearing was to show cause why the respondent should not be found in violation of the Standards of Conduct, which the respondent was alleged to have violated in the OIG Report.

Summary of Evidence

The OIG has alleged that the respondent violated the above referenced provisions of the DPM as a result of his solicitation of Verizon Communication to pay for an evening reception during the Democratic National Convention in Los Angeles, California in August 2000. Consequently, the Inspector General has alleged that the respondent engaged in activity which was not compatible with the full and proper discharge of his responsibilities as a government official and created the appearance of impropriety. The OIG relies exclusively upon its Report, which is incorporated herein in its entirety.

On June 17, 2002 the respondent appeared before the OCF at a scheduled hearing with counsel, Donald R. Dinan, Esquire, conducted by William O. SanFord, Esq., Senior Staff Attorney. Wesley Williams, OCF Investigator, was also present.

Synopsis of Proceedings

The respondent has been an At Large Member of the District of Columbia City Counsel since January 1991. Prior to his election as an At Large Member, he represented Ward 6 of the District of Columbia from January 1991 through December 1996.

During examination by Mr. SanFord, the respondent testified that he is familiar with the Standards of Conduct as cited in the DPM. The respondent further testified that he and his counsel had read and understood the allegations against him in the Inspector General's Report. The respondent was asked to respond to the specific findings in the Report, alleging that he violated the Standards of Conduct. He stated that while he discussed helping the D.C. delegation that was traveling to the Democratic Convention in Los Angeles in August 2000, with a Verizon representative, he did not solicit funds. The respondent further stated that he initiated contact, asked a general question, and did not ask the Verizon representative to donate funds or pay vendors

During direct examination by counsel, the respondent testified that he did not contact the vendor who catered the reception, he did not contract for or arrange for the space where the function was held, and he did not participate in the payment of the bill for the function.

The respondent further stated that he neither made nor received any promises as a result of the event. He testified that he was solely attempting to serve as a facilitator to promote the cause of Statehood for the District of Columbia at the Democratic National Convention.

Findings of Fact

Having reviewed the allegation and the record herein, I find:

1. Respondent, Harold Brazil, who is an At Large Member of the Council of the District of Columbia, is a public official required to file a Financial Disclosure Statement (hereinafter FDS) with OCF.
2. Among other things, respondent is responsible for advocating the interests of the District of Columbia, including the attainment of formal representation of its citizenry in the United States Congress, among the various states and the national political parties.
3. Respondent sought to advocate the District's interest in its attainment of formal representation of its citizenry in the United States Congress by hosting an evening reception for the District's Delegates to the 2000 Democratic National Convention (DNC) in Los Angeles, California.
4. Respondent sought the assistance of the Verizon Telephone Company (Verizon), through its president, Marie Johns, "...to contribute in the interest of being a good corporate citizen and enhanc[e] the District's image." Report at 123.
5. Verizon assumed responsibility for the expenses of the evening reception for the District's Delegates to the 2000 DNC in Los Angeles, California.

Conclusions of Law

1. Respondent is an elected official of the District of Columbia government and is subject to the enforcement provisions of the employee conduct regulations at DPM §§1800 et seq.
2. Respondent and Verizon entered into a public-private partnership to fund an evening reception for the District's Delegates to the 2000 DNC in Los Angeles, California; and, that partnership was deemed government business.
3. Respondent sought and obtained the assistance of Verizon to enhance the District's image at an evening reception for the District's Delegates to the 2000 DNC in Los Angeles, California; and, notwithstanding Verizon's assumption of the full financial responsibility of said reception, respondent did not violate the employee conduct regulations because respondent was engaged in government business.

4. Respondent's conduct was appropriate with regard to the public-private partnership with Verizon to fund an evening reception for the District's Delegates to the 2000 DNC in Los Angeles, California.

Recommendation

I hereby recommend the Director to dismiss this matter.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that this matter be dismissed.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

Parties Served:

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SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

S. Wesley Williams
Investigator

NOTICE

Pursuant to 3 DCMR § 3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this Order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, N.W., Washington, D.C. 20009.